IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION NO :29633 of 1995

Dated: 12th July 2006.

Between:

C.Parvatheesamaiah and others

..... PETITIONERS

AND

District Collector, Kurnool and another

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

W.P.NO.29633 OF 1995

ORAL ORDER:

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the affidavit filed herewith, it is prayed that this Hon'ble Court may be pleased to issue a Writ, Order or direction particularly one in the nature of Writ of Mandamus, declaring the acquisition of the Petitioners' land of an extent of Ex.4-35 cents in S.No.410/2B of Mallevemula Village in pursuance of the impugned notification published in the Telugu Daily Andhra Jyothi dated 13-12-1995 by the 1st Respondent as illegal, arbitrary and unsustainable and pass such other or further orders as are necessary in the interest of justice."

The petitioners claim to be owners of a piece of land admeasuring Ac.4-35 cents in Sy.No.410/2B of Mallevemula Village of Chagalamarri Mandal, Kurnool District. It appears that a notification under Section 4(1) of the Land Acquisition Act was issued on 02-12-1995, proposing to acquire the abovementioned property of the petitioners, simultaneously, invoking the power under Section 17(4) of the Act in dispensing with the enquiry contemplated under Section 5-A of the Act. Aggrieved by the same the present writ petition is filed.

The substance of the petitioner's case is that the purpose, for which the acquisition is sought to be made, is not such a purpose, which warrants invocation of the powers under Section 17(4) of the Act.

While admitting the matter on 29-12-1995, this Court ordered *status quo* prevailing as on that day to be maintained.

All the respondents are served and counter affidavit is filed.

The learned Government Pleader for Land Acquisition, on the basis of the record, submits that though declaration under Section 6 of the Act, was made on

16-12-1995, possession of the property was not, in fact, taken.

In the circumstances, I am of the opinion that the matter can be disposed of, without examining various legal issues raised in this case, in view of the fact that for eleven long years, possession of the property was not taken, though a major part of the same is attributable to the interim orders granted by this Court. The ends of justice would be met by directing the respondents to hold an enquiry under Section 5-A of the Act and take an appropriate decision as to the suitability and desirability of the acquisition of the said property of the petitioners.

Notification under Section 6 of the Act, dated 16-12-1995, is quashed.

In the result, the writ petition is disposed of to the above effect.

---

J.Chelameswar, J

mrk
12th July 2006.